

Fixity of Tenure (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

PART I.

Provisions for securing Fixity of Tenure, and the Ascertainment of Fair Rents. Tenancies from year to year.

Clause.

1. Restriction of the right of ejectment grounded on notice to quit.
 2. Notices to quit not to be served without leave.
 3. Right of tenant to serve process to have his rent reduced to a fair rent.
 4. Proceedings to enforce such claim.
 5. Right of landlord to serve process to have the rent increased to a fair rent.
 6. Proceedings to enforce such claim.
 7. Fair rent defined and mode to be pursued in ascertaining same.
 8. Implied reservations to the landlord.
 9. Prohibition against subletting or subdividing the tenant's holding.
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PART II.

Provisions for securing the right of Free Sale.

10. Right of unrestricted sale without regard to office rules.
 11. Landlord or tenant not to contract themselves out of the Act except in certain cases.
 12. Right of ejectment for non-payment of rent not to be affected by this Act.
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PART III.

Provisions with respect to Holdings under Lease or Contract in Writing.

13. On termination of lease tenant to hold as tenant from year to year subject to the incidents of such tenancies as declared by first and second parts of this Act.

[Bill 144.]

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Clauses.

14. Exclusion of certain interests from the operation of section 13.
15. Landlord or tenant not to contract himself out of this part of the Act except in certain cases.
16. Extension of leasing powers of limited owners to ninety-nine years, (twenty-eighth section of Land Act, 1870.)
17. Tenant may in all cases deduct proportion of county cess.
18. Right of appeal and rules to be made.
19. Interpretation of terms.
20. Incorporation with Land Act, 1870, and short title.
21. Application of Act.

SCHEDULE.

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Secure to Tenants of Agricultural Holdings in Ireland Fixity A.D. 1880.
of Tenure at fair Rents.

WHEREAS it is expedient to secure to the tenants of agricultural holdings in Ireland fixity of tenure subject to fair rents, and to amend the law relating to landlord and tenant in respect of such holdings :

Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

10 *Provisions for securing Fixity of Tenure and the Ascertainment of Fair Rents. Tenancies from year to year.*

1. No landlord of any holding as defined by this Act held under a tenancy from year to year, whether created before or after the passing of this Act, shall be entitled to obtain a decree or judgment in any action of ejectment for the possession of such holding grounded on a notice to quit, unless he shall prove to the satisfaction of the court appointed to hear and determine land claims for the district within which the same is situate that some one or more of the following matters have occurred :
- 20 (a.) That the landlord has offered, and at the time of the trial of such action is willing to continue the tenant in his holding at a fair rent ascertainable as provided for in section seven of this Act, and that the tenant has refused and is at the time of the trial of such action unwilling to continue at the rent so to be determined :
- 25 (b.) That the tenant has allowed his holding to become sub-

Restrictions of the right of ejectment grounded on notice to quit.

[Bill 144.]

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A.D. 1880.

stantially deteriorated in value, or shall be guilty of wilfully persisting in committing waste :

(c.) That the tenant has without sufficient reason refused to allow his landlord to exercise some one or more of his rights as reserved by section eight :

(d.) That the holding has become subdivided by assignment or sublet as specified in section nine of this Act without the consent in writing of the landlord.

Notice to quit not to be served without leave.

2. It shall not be lawful for the landlord of any such holding, whether created before or after the passing of this Act, to serve any notice to quit in order to recover possession upon any of the grounds specified in the last section, unless and until he shall have obtained liberty so to do from the court, and such application may be made *ex parte*, and shall be grounded upon an affidavit filed with the clerk of the peace showing sufficient grounds why liberty to serve the notice to quit should be granted; and the court may either grant leave or refuse the same in its discretion, or may direct notice of the application to be given to the tenant and adjudicate thereupon as may be just.

Right of tenant to serve claim to have his rent reduced to a fair rent.

3. It shall be lawful for the tenant of any holding held under a tenancy from year to year, whether created before or after the passing of this Act, to issue a claim and bring the same before the court, claiming to have the rent of such holding reduced to a fair rent, according to the provisions of this Act; and such claim shall state the reduction proposed by the tenant, and a copy thereof shall be lodged with the clerk of the peace. It shall be lawful for the landlord, if he shall agree to such reduction of the rent, to serve upon the tenant and lodge with the clerk of the peace a notice in writing within days after the service of such claim that he agrees thereto; and thereupon all further proceedings upon the claim shall be stayed, and the rent so agreed upon shall accrue and be payable from the day next preceding the service of such claim, and shall thenceforth continue for a period of seven years and such further time until either the landlord or the tenant shall again claim to have the same adjusted under the provisions of this Act.

Proceedings to enforce such claim.

4. In any such action as aforesaid if the landlord shall not so agree to the reduction of rent claimed by the tenant, or shall omit to serve such notice within the time in that behalf provided as aforesaid, the tenant may proceed to have the same heard by the court within such time and subject to such rules as shall be made pursuant to the provisions of this Act; and upon the hearing of such claim it shall be the duty of the court to inquire into and determine

whether the reduction claimed by the tenant is fair and reasonable, and shall determine what is the fair rent which should be paid by the tenant for his holding according to the principles specified in section seven of this Act, and the costs shall be in the discretion of the court. The rent when so ascertained and certified by the judge shall thenceforth be the rent payable by the tenant in respect of such holding for a period of seven years at the least, and until the same shall be again adjusted at the instance of either the landlord or the tenant, and the judge shall if required execute to the parties a declaration in the form or a similar form to that in the schedule to this Act contained, and in case the tenant shall fail to prosecute such claim to a hearing, then same shall stand dismissed as to costs or otherwise, as the court shall direct.

A.D. 1880.

5. It shall be lawful for the landlord of any holding held under a tenancy from year to year, whether created before or after the passing of this Act, to issue a claim and bring the same before the court, claiming to have the rent of such holding increased to a fair rent according to the provisions of this Act and such claim shall state the increase proposed by the landlord, and a copy thereof shall be lodged with the clerk of the peace; and it shall be lawful for the tenant, if he shall agree to such increase of the rent, to serve upon the landlord a notice in writing within days after he shall have been served with the claim, that he agrees thereto, and shall lodge a copy of such notice with the clerk of the peace, and thereupon all further proceedings shall be stayed, and the rent so agreed upon shall accrue and be payable from the day next preceding the service of such claim and thenceforth continue for a period of *seven years* and such further time either until the landlord or the tenant shall seek to have the same again adjusted under the provisions of this Act.

Right of
landlord to
serve claim
to have
the rent
increased to
a fair rent.

6. In any such claim as aforesaid, if the tenant shall not agree to the increase of rent claimed by the landlord, or shall omit to serve such notice within the time in that behalf provided as aforesaid, the landlord may proceed to have the same heard by the court within such time and subject to such rules as shall be made pursuant to the provisions of this Act; and upon the hearing of such claim it shall be the duty of the court to inquire into and determine whether the increase of rent claimed by the landlord is fair and reasonable, and shall determine what is the fair rent which should be paid by the tenant for his holding according to the principles specified in section seven of this Act, and the costs shall be in the discretion of the court. The rent when so ascertained and certified by the judge shall thenceforth be the rent payable by

Proceedings to enforce
such claim.

A.D. 1860.

the tenant in respect of such holding for a period of seven years and until the same shall be again adjusted at the instance of either the landlord or the tenant, and the judge shall if required execute to the parties a declaration in the form or a similar form to that in the schedule to this Act contained; and in case the landlord shall fail to prosecute the claim to a hearing the same shall stand dismissed upon such terms as to costs and otherwise as the court shall direct.

Fair rent defined, and mode to be pursued in ascertaining same.

7. In ascertaining what shall be the fair rent of a holding, the judge shall proceed in manner following, and shall observe the following principles:—The rent to be deemed the fair rent shall be that which a solvent and responsible tenant could at the time of the inquiry afford to pay fairly and without collusion for the premises, after deducting from such rent, First:—The addition to the letting value of the premises referable to any unexhausted and suitable improvements made by the tenant or his predecessors in title, and after deducting, Secondly:—Any increase of letting value referable to the expenditure of labour or capital of the tenant, whether the same be capable of being specified in detail or not. And the judge shall further take into consideration any variation in the average price of agricultural produce or stock which shall have taken place since the holding was last in the possession of the landlord or his predecessors in title if evidence of the same be offered. And it shall be lawful for either the landlord or the tenant by notice in writing, to be served by registered letter through the post upon the clerk of the peace, not less than fourteen days prior to the hearing of the claim, to require him to make application to the Commissioner of the Tenant Valuation of Rateable Property in Ireland, at his office in Dublin, to send a valuator to inspect the premises, and to attend at the hearing of the claim, which requisition the clerk of the peace shall comply with. And it shall be the duty of the said commissioner to appoint a valuator for the purpose, and the valuator to be appointed shall, after inspecting the premises, attend the court and give evidence upon oath as to the rent which a solvent and responsible tenant could at the time of the inquiry afford to pay fairly and without collusion for the premises, and the expense of such attendance of the valuator shall be deemed to be part of the costs and expenses of and incident to the annual revision of the tenement valuation of rateable property in Ireland, and shall be defrayed accordingly.

Implied reservations to the landlord.

8. There shall be deemed to be reserved to every landlord of every such holding, all royalties, mines, minerals, and quarries, with liberty to enter upon the premises for the purpose of digging

and searching for mines and minerals, making full compensation to the tenant for any injury done in such searching and digging, and carrying away the same. There shall be also deemed to be reserved to such landlord a right of entering on the premises by himself, his servants, and licencees for the purpose of fishing, sporting, or in pursuit of game, and also a right of entry to view and examine the condition of the premises.

A.D. 1880.

9. It shall not be lawful for any such tenant to let his holding or any part thereof to any person without the consent in writing of the landlord or his agent, or to assign a portion of his holding so as to subdivide the same without such consent as aforesaid, or to devise the same to more than one person; but nothing herein contained shall prevent any tenant from charging his estate in said lands by his last will and testament, or by any deed executed in his lifetime, with such charges in favour of one or more persons as he may think fit, and none of the following acts or things shall be deemed to be a violation of the provisions herein-before contained against subdivision:—

Prohibition against subdividing or subdividing the tenant's holding.

(a.) Letting the lands or any part thereof in conacre or for grazing, according to the usual course of conacre and grazing;

(b.) Letting the whole or part of a house with any portion of the premises for a temporary purpose;

(c.) Letting to any agricultural labourer any quantity of land not exceeding the proportion of one acre to thirty acres of the holding;

and all lettings or assignments in contravention of this Act shall except for authorising proceedings taken by the landlord in consequence thereof, be absolutely null and void.

30 Provided that in the case landlord shall, without reasonable cause, decline on the application of the tenant to consent to the subdivision or sub-letting applied for, it shall be lawful for the tenant to apply to the court for liberty so to subdivide or sublet in such manner and subject to such conditions as the court shall direct.

PART II.

Provisions for securing the Right of Free Sale.

10. The tenant of every holding as defined by this Act shall have the right to sell his interest in his holding by private sale or public auction, all contracts, agreements, estate or office rules or usages to

Right of unrestricted sale, without regard to office rules.

A.D. 1880.

the contrary notwithstanding; provided always that the entire estate and interest of the tenant in his holding shall be sold, and sold in one lot only, and the purchaser of every such holding (if not the landlord) shall become the tenant thereof, and such holding shall be held at the same rent and subject to the same rights, liabilities, and incidents which affected the same prior to such sale under the provisions of this Act, as if no change had taken place in the occupation of said holding.

Landlord or tenant not to contract themselves out of the Act except in certain cases.

11. It shall not be lawful for any landlord or tenant whose holding shall be valued according to the Act in force for the tenement 10 valuation of rateable property in Ireland at a less sum than *one hundred pounds* to contract himself out of the provisions of this Act.

Right of ejectment for non-payment of rent not to be affected.

12. Nothing in this Act contained shall affect the right of a landlord to recover possession in ejectment for non-payment of rent. 15

PART III.

Provisions with respect of Holdings under Lease or Contract in Writing.

On termination of lease tenant to hold from year to year subject to the incidents declared by first and second parts of this Act

13. It shall not be lawful for any landlord of a holding as defined by this Act, and held under a lease or contract in writing 20 for a term exceeding *one year*, and whether made before or after the passing of this Act, on the termination of such lease or contract in writing, to recover possession of such holding by process or action of ejectment on the title, or exercise any right of re-entry; but on the termination of such lease or contract in writing the 25 lessee or tenant shall be deemed to hold the premises as tenant from year to year at the rent and subject to the conditions payable under and contained in the lease or contract in writing, and the holding shall thenceforth in all respects be subject to the provisions, rights, incidents, and liabilities set forth and contained in first and 30 second parts of this Act in respect of holdings held from year to year, and as if the same holding had not been demised by lease or contract in writing, but had always been held under a tenancy from year to year.

Exclusion of certain interests from the operation of section 13.

14. The provisions of this part of this Act shall not extend to 35 holdings held under lease or contract in writing made before or after the passing of this Act in the following cases:—

(*a.*) Leases of holdings of the annual value of *one hundred*

pounds under the Act for the valuation of rateable property in Ireland: A.D. 1880.

(b.) Leases containing covenants for perpetual renewal;

(c.) Leases containing covenants for renewal;

5 (d.) Leases made by the Chancery Division of the High Court of Justice in any matter or cause;

(e.) Leases made for a temporary purpose;

(f.) Leases made for *ninety-nine* years or upwards.

10 15. It shall not be lawful for any landlord or tenant of any holding held under lease or contract in writing made after the passing of this Act to contract himself out of the provisions of this part of this Act, except in the cases following:—

(a.) When the holding is valued under the Act relating to the valuation of valuable property in Ireland at an annual value of one hundred pounds or upwards:

15 (b.) When the lands are leased for a term of *ninety-nine* years or upwards.

Landlord or tenant not to contract himself out of this part of the Act except in certain cases.

20 16. The powers conferred upon limited owners by the twenty-eighth section of the Landlord and Tenant (Ireland) Act, 1870, shall after the passing of this Act be extended to the making of leases for any term of years not exceeding *ninety-nine* years, subject to the several restrictions contained in the said section of the said Act.

Extension of leasing powers of limited owners to *ninety-nine* years.

25 17. The right conferred by the sixty-fifth section of the Landlord and Tenant (Ireland) Act, 1870, upon occupiers of premises liable to the payment of grand jury cess under tenancies created after the passing of the said Act, to deduct the portion of grand jury cess therein mentioned, shall extend to every holding within the provisions of this Act, whether made before or after the passing of the said Act, and whether under the lease or contract of tenancy the

30 tenant has either expressly or impliedly agreed not to deduct any part of the county cess, any contract or agreement to the contrary notwithstanding.

Tenant may in all cases deduct proportion of county cess.

18. The same right of appeal from any decision under this Act shall exist as is provided by the Land Act for appeals from decisions

35 thereunder, and rules shall be made for the carrying out the provisions of this Act by the Court for Land Cases Reserved, or any of the judges named in that behalf, and in manner as provided by the thirty-first section of the Land Act.

Right of appeal and rules to be made.

19. In the construction of this Act the following words and

40 expressions shall have the force and meaning hereby assigned to them, unless there be something in the subject or context repugnant thereto.

Interpretation of terms.

A.D. 1880.

The term "Land Act" shall mean the Act passed in the thirty-fourth year of the reign of Her Majesty Queen Victoria, entitled An Act to amend the law relating to the occupation and ownership of land in Ireland.

The term "holding" shall include every holding which is agricultural or pastoral in its character, or partly agricultural and partly pastoral, but shall not include, (a) any holding held by the tenant as the hired servant or labourer of the landlord; (b) any letting in consacre or for feeding cattle; (c) any land let temporarily for grazing; (d) any holding let and expressed in the document by which it is let to be for the temporary convenience or to meet a temporary necessity either of the landlord or the tenant; (e) any cottage allotment not exceeding half an acre.

The terms "lease," "settlement," "landlord," "tenant," "person," "party," "county," "prescribed," shall respectively have the force and meaning assigned to them by the Land Act.

The term "action" shall mean and include "claim."

The term "court" shall mean the land court of the county, district, or division within which the lands are situated.

The term "judge" shall mean the county court judge or any judge of the High Court of Justice having cognizance of the subject matter as one of the judges of assize, or of the Court of Land Cases Reserved.

20. This Act shall, so far as is consistent with the provisions thereof, be construed as one with the Landlord and Tenant (Ireland) Act, 1870, and may be cited for all purposes as the Fixity of Tenure Act (Ireland), 1880.

21. This Act shall apply to Ireland only.

**Fixity of Tenure
(Ireland).**

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To secure to Tenants of Agricultural
Holdings in Ireland Fixity of Tenure
at Fair Rents.

*(Prepared and brought in by
Mr. Larn, Mr. Staines, Mr. Glyn,
Mr. Stoddart, and Mr. James Richardson.)*

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[1845 146.]

Order 3. 40